

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

SCOTT WEAVER, individually and on
behalf of all others similarly situated,

PLAINTIFF,

v.

**CHAMPION PETFOODS USA, INC. and
CHAMPION PETFOODS LP,**

DEFENDANTS.

Case No. 2:18-cv-01996-JPS

PLAINTIFF’S MOTION FOR CLASS CERTIFICATION

Plaintiff Scott Weaver, by his undersigned attorneys, on behalf of himself and all others similarly situated, respectfully requests that the Court enter an order certifying the following Class pursuant to Rule 23(a), Rule 23(b)(2), and Rule 23(b)(3):

All persons residing in the State of Wisconsin who purchased Dog Food between July 1, 2014 and the present.¹

Plaintiff also requests that the following subclass be certified pursuant to Rule 23(a), Rule 23(b)(2), and Rule 23(b)(3):

All persons residing in the State of Wisconsin who purchased JBS Dog Foods between January 2016 and December 2018.²

In the alternative, Plaintiff requests that the Class be certified with respect to the following issues, pursuant to Rule 23(a), Rule 23(b)(3), and Rule 23(c)(4):

- Whether Defendants’ claims that the Dog Food were “Biologically Appropriate” and made with “Fresh Regional Ingredients” and “Natural Ingredients” that are “Delivered Daily,” “Never Outsourced,” and come from “trust suppliers” are untrue, deceptive, or misleading;

¹ The “Dog Foods” at issue are identified in Paragraphs 7 and 26 of the Third Amended Class Action Complaint.

² “JBS Dog Food” refers to Acana Appalachian Ranch, Acana Heritage Red Meat, and Orijen Regional Red manufactured and sold between January 2016 and December 2018.

- Whether Defendants made these representations with the intent to induce an obligation or deceive;
- Whether Defendant knew the representations were untrue;
- Whether Defendant made the representations with reckless disregard for their truth;
- Whether Defendant failed to disclose the risks of heavy metals, pentobarbital, and DCM;
- Whether the risks of heavy metals, pentobarbital, and DCM were material to the sale of Dog Food;
- Whether the risks of heavy metals, pentobarbital, and DCM were peculiarly and exclusively within Defendants' knowledge;
- Whether the Class could reasonably be expected to discover those risks;
- Whether, on account of objective circumstances, the Class would reasonably expect disclosure of those risks; and
- Whether Defendants' Dog Foods were adulterated or misbranded in violation of Wis. Stat. § 94.72.

Plaintiff further requests that this Court appoint him as Class Representative. Finally, Plaintiff requests that this Court appoint Lockridge Grindal Nauen P.L.L.P.; Gustafson Gluek, PLLC; Cuneo Gilbert & LaDuca LLP; Robbins Arroyo LLP; and Lite DePalma Greenberg, LLC as Co-Lead Class Counsel.

In support of this motion, Plaintiff refers to the Memorandum of Law and Declaration of Rebecca A. Peterson in support of this Motion, the exhibits, and the record in this matter, which demonstrate that the proposed classes meets the requirements of Rule 23.

Dated: August 15, 2019

LOCKRIDGE GRINDAL NAUEN P.L.L.P.

By: s/ Rebecca A. Peterson
CHARLES N. NAUEN, #1031943
ROBERT K. SHELQUIST
REBECCA A. PETERSON
100 Washington Avenue South, Suite 2200
Minneapolis, MN 55401
Telephone: (612) 339-6900
Facsimile: (612) 339-0981
E-mail: cnnaugen@locklaw.com
rkshelquist@locklaw.com
rapeterson@locklaw.com

GUSTAFSON GLUEK, PLLC
DANIEL E. GUSTAFSON
KARLA M. GLUEK
RAINA C. BORRELLI
Canadian Pacific Plaza
120 South 6th Street, Suite 2600
Minneapolis, MN 55402
Telephone: (612) 333-8844
Facsimile: (612) 339-6622
E-mail: dgustafson@gustafsongluek.com
kgluek@gustafsongluek.com
rborrelli@gustafsongluek.com

ROBBINS ARROYO LLP
KEVIN A. SEELY
STEVEN M. MCKANY
5040 Shoreham Place
San Diego, CA 92122
Telephone: (619) 525-3990
Facsimile: (619) 525-3991
E-mail: kseely@robbinsarroyo.com
smckany@robbinsarroyo.com

CUNEO GILBERT & LADUCA, LLP
CHARLES LADUCA
KATHERINE VAN DYCK
4725 Wisconsin Ave NW, Suite 200
Washington, DC 20016
Telephone: 202-789-3960
Facsimile: 202-789-1813
E-mail: kvandyck@cuneolaw.com
charles@cuneolaw.com

LITE DEPALMA GREENBERG, LLC
JOSEPH DEPALMA
SUSANA CRUZ HODGE
570 Broad Street, Suite 1201
Newark, NJ 07102
Telephone: (973) 623-3000
E-mail: jdepalma@litedepalma.com
scrushodge@litedepalma.com

PETERSON LAW and MEDIATION, LLC
MARK A. PETERSON (1016259)
1433 N. Water Street, Suite 400
Milwaukee, WI 53202
Telephone: (414) 877-7312
E-mail: mark@markpetersonlaw.com

Attorneys for Plaintiff